

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

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CARROLL DAVEY LINCOLN, PRO SE,	§	
TDCJ-CID No. 800198,	§	
	§	
Plaintiff,	§	
	§	
v.	§	2:08-CV-111
	§	
MEDICAL STAFF, SECURITY STAFF,	§	
UNNAMED GUARD, NP SHERYL GARY,	§	
DENTIST NFN CHITWOOD, and	§	
DR. ROY FISHER,	§	
	§	
Defendants.	§	

**REPORT AND RECOMMENDATION**

Plaintiff CARROLL DAVEY LINCOLN, proceeding *pro se* and while a prisoner in the custody of the Texas Department of Criminal Justice, Correctional Institutions Division, has filed suit pursuant to Title 42, United States Code, section 1983 complaining against the above-referenced defendants and was granted permission to proceed *in forma pauperis*.

On February 12, 2010, the Court issued a Briefing Order Questionnaire eliciting information from plaintiff about his claims. Plaintiff was instructed that a failure to fully and timely respond would be construed as a failure to prosecute and could lead to the dismissal of the instant cause without further notice. Plaintiff responded on March 4, 2010 by answering only five of the eleven questions, with one answer being incoherent.

On March 19, 2010, the Court issued a Order giving plaintiff a final opportunity to comply with the Briefing Order by providing answers to the unanswered questions and providing

a coherent answer to question no. 11. Plaintiff was instructed again that a failure to fully and timely respond would be construed as a failure to prosecute and could lead to the dismissal of the instant cause without further notice.

Plaintiff filed his response on March 29, 2010. By his response, plaintiff entirely failed to answer questions 1, 4, 5 and 6 and his responses to question nos. 8 and 11 are incoherent.

It appears plaintiff refuses to provide answers to all of the questions on the Questionnaire.

A district court may dismiss actions sua sponte for failure to comply with a court order. *Long v. Simmons*, 77 F.3d 878, 879 (5th Cir. 1996). Plaintiff has not fully complied with the Court's February 12, 2010 Briefing Order Questionnaire.

The instant Report and Recommendation provides a final opportunity to provide the requested information. If plaintiff does not answer questions 1, 4, 5, and 6 on the Questionnaire, and does not provide a coherent answer to question nos. 8 and 11, the instant cause should be dismissed for failure to comply with the Court's order.

### **CONCLUSION**

For the reasons set forth above, it is the RECOMMENDATION of the Magistrate Judge to the United States District Judge that the Civil Rights Complaint filed pursuant to Title 42, United States Code, Section 1983, by plaintiff CARROLL DAVEY LINCOLN be DISMISSED

FOR FAILURE TO PROSECUTE AND FOR FAILURE TO COMPLY WITH THE COURT'S ORDER.

INSTRUCTIONS FOR SERVICE

The United States District Clerk is directed to send a copy of this Report and Recommendation to each party by the most efficient means available.

IT IS SO RECOMMENDED.

ENTERED this 2nd day of April, 2010.

  
CLINTON E. AVERITTE  
UNITED STATES MAGISTRATE JUDGE

**\* NOTICE OF RIGHT TO OBJECT \***

Any party may object to these proposed findings, conclusions and recommendation. In the event parties wish to object, they are hereby NOTIFIED that the deadline for filing objections is fourteen (14) days from the date of filing as indicated by the "entered" date directly above the signature line. Service is complete upon mailing, Fed. R. Civ. P. 5(b)(2)(C), or transmission by electronic means, Fed. R. Civ. P. 5(b)(2)(E). **Any objections must be filed on or before the fourteenth (14th) day after this recommendation is filed** as indicated by the "entered" date. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b)(2); *see also* Fed. R. Civ. P. 6(d).

Any such objections shall be made in a written pleading entitled "Objections to the Report and Recommendation." Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation contained in this report shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge in this report and accepted by the district court. *See Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).